

STATEMENT OF CPCS CHIEF COUNSEL WILLIAM J. LEAHY  
IN SUPPORT OF H. 4321, AN ACT RELATIVE TO PRIVATE ATTORNEYS  
PROVIDING PUBLIC COUNSEL SERVICES

The attached arguments in support of increased compensation for private counsel who accept Committee for Public Counsel Services assignments are as valid today as they were on the day I presented them almost five years ago. I still consider these attorneys to be public servants: indeed I think they are public heroes.

Some things, however, have changed in the past five years; and not for the better. Five additional years of inaction have caused deep frustration and the net loss of well over 200 experienced attorneys from our program. Coupled with the loss of over 10% of our public defender staff due to three consecutive years of deep budget cuts, these losses have resulted in a true counsel crisis: one that has already denied some poor people their essential constitutional right to counsel, and has already begun to cripple the operations of our courts.

The Governor's response to this crisis has been the equivalent of pouring gasoline over smoldering coals. His veto of millions of necessary dollars appropriated by the General Court, his threats to lawyers, his rejection of reform proposals put forth by CPCS, his H.1 menu of impractical and inefficient changes in agency policies--and most tellingly by his multimillion dollar underfunding of the essential counsel right for the poor in his FY05 budget--all of these actions signify a distressing lack of support for one of the most fundamental constitutional rights which, our courts have consistently taught, may not be denied on the basis of poverty. Most regrettably, it appears that this Administration is turning its back upon the right to counsel; and shunting aside decades of vigorous adherence in Massachusetts to the principle of equal justice for the poor.

The rank inadequacy of our compensation rates ought to be considered a disgrace to this Commonwealth, which is accustomed to leading the nation in enforcement of the *Gideon* right; not lagging behind as we have done for far too many years. The time for corrective action is not at some distant day when we shall have completed our economic recovery. The time for action--forceful action--is right now. Thank you.

February 3, 2004